

May 6, 2020

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re FLINT WATER CASES Case No. 16-10444

Case No. 16-10444

VIDEO CONFERENCE

BEFORE THE HONORABLE JUDITH E. LEVY
UNITED STATES DISTRICT JUDGE

MAY 6, 2020

APPEARANCES IN ALPHABETICAL ORDER:

Charles E. Barbieri
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, MI 48933

Frederick A. Berg
Butzel Long 150
West Jefferson, Suite 100
Detroit, MI 48226

Margaret A. Bettenhausen
Michigan Department of Attorney General
P.O. Box 30755
Lansing, MI 48909

(Appearances continued on next page)

For a Certified Transcript Contact:

Jeseca C. Eddington, RDR, RMR, CRR, FCRR
Federal Official Court Reporter
United States District Court
200 East Liberty Street Ann Arbor,
Michigan 48104

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James W. Burdick
Burdick Law, P.C.
1760 South Telegraph Road, Suite 300
Bloomfield Hills, MI 48302

Alaina N. Devine
Campbell Conroy & O'Neil, P.C.
1 Constitution Wharf, Suite 310
Boston, MA 02129

Philip A. Erickson
Plunkett & Cooney
325 East Grand River Avenue, Suite 250
East Lansing, MI 48823

Nathan A. Gambill
Michigan Department of Attorney General
ENRA Division
P.O. Box 30755
Lansing, MI 48909

Julie Goodwin
Loevy & Loevy
311 North Aberdeen, 3rd Floor
Chicago, IL 60607

William Young Kim
City of Flint
1101 South Saginaw Street, Third Floor
Flint, MI 48502

Richard S. Kuhl
Michigan Department of Attorney General
ENRA Division, P.O. Box 30755
Lansing, MI 48909

Theodore J. Leopold
Cohen Milstein Sellers and Toll PLLC
2925 PGA Boulevard, Suite 200
Palm Beach Gardens, FL 33410

J. Brian MacDonald
Cline, Cline & Griffin
1000 Mott Foundation Building
503 South Saginaw Street
Flint, MI 48502

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1 Matthew Wise
2 Foley & Mansfield, PLLP
3 130 East 9 Mile Road
4 Ferndale, MI 48220

5 Edwar A. Zeineh
6 Law Office of Edwar A. Zeineh, PLLC
7 2800 East Grand River Avenue, Suite B
8 Lansing, MI 48912

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To Obtain a Certified Transcript Contact:

Jeseca C. Eddington, RDR, RMR, CRR, FCRR
Federal Official Court Reporter
United States District Court
200 East Liberty Street - Ann Arbor, Michigan 48104

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PROCEEDINGS

THE CLERK: Now calling the Flint Water Cases.

THE COURT: Okay. Well, welcome to everyone.

I asked my court reporter, Jeseca, to be present for the hearing today in the event that we need to put something on the record. So what we'll do is start with appearances in case that eventuality take place. We'll then go off the record to see whether we can resolve the disputes that have come up since our last discovery dispute resolution call. And if we can come to a resolution and it needs to be on the record, we'll put it on the record. And either way if we need to put something on the record, she'll remain available to us.

13 Is there anybody currently on the call who would like
14 to take position that the entire call or meeting should be on
15 the record? Okay.

16 Well, why don't we do this then. We'll have
17 appearances. And we'll begin at the beginning of the case
18 caption with co-liaison counsel, if present.

19 MR. STERN: Yes, Your Honor. Good afternoon. Corey
20 Stern on behalf of individual plaintiffs.

21 THE COURT: Thank you. Is anyone else present for
22 co-liaison? And if not, then any other individual plaintiffs
23 counsel?

24 MS. TSAI: Cindy Tsai on behalf of the Marble
25 plaintiffs.

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1 THE COURT: Thank you.

2 MS. GOODWIN: And Julie Goodwin also on behalf of the
3 Marble plaintiffs.

4 MR. WEGLARZ: Good afternoon, Your Honor. Todd
5 Weglarz for plaintiffs Brown and Rogers.

6 THE COURT: Okay. Thank you. And co-lead class
7 counsel or any other class counsel.

8 MR. LEOPOLD: Good afternoon, Your Honor. Ted
9 Leopold on behalf of the punitive class.

10 THE COURT: Thank you.

11 MR. LEOPOLD: I don't believe Mr. Pitt is on today,
12 if I'm not mistaken.

13 THE COURT: All right. Okay. Well then let's start
14 with State of Michigan defendants.

15 MR. KUHL: Good afternoon, Your Honor. This is
16 Richard Kuhl also on behalf of Mr. Feedler today.

17 THE COURT: Oh, thank you.

18 MS. BETTENHAUSEN: Good afternoon, Your Honor. This
19 is Margaret Bettenhausen of state defendants in this
20 proceeding.

21 THE COURT: Thank you.

22 MR. GAMBILL: And this is Nathan Gambill on behalf of
23 the state defendants and the People.

24 THE COURT: Okay. I saw Jessica Weinr show up on my
25 screen as speaking but I didn't hear a voice. Okay. Then

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1 let's go to MDEQ defendants.

2 MR. BARBIERI: Charles Barbieri for MDEQ defendants
3 with the exception of Mr. Rosenthal.

4 MR. BURDICK: My name is James Burdick for Mr.
5 Rosenthal.

6 THE COURT: Thank you. And for City of Flint.

7 MR. BERG: Good afternoon, Your Honor. Rick Berg
8 here for the City of Flint.

9 THE COURT: Thank you.

10 MR. KIM: And good afternoon. William Kim here as
11 well for the City of Flint.

12 MR. RUSEK: Good afternoon, Your Honor. This is
13 Alexander Rusek for Howard Croft.

14 THE COURT: Great. Thank you.

15 MR. ZEINEH: Good afternoon, Your Honor. Edwar
16 Zeineh for Daugherty Johnson.

17 MR. MATEO: Good afternoon, Your Honor. Santino
18 Mateo on behalf of Darnell Earley.

19 THE COURT: Thank you. Okie dokie. Then let's go to
20 VNA defendants.

21 MS. DEVINE: Good afternoon, Your Honor. Alaina
22 Devine on behalf of the VNA defendants.

23 MR. ROGERS: And also David Rogers, Your Honor, good
24 afternoon, for VNA defendants.

25 THE COURT: Great. Thank you. And for LAN.

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1 MR. ERICKSON: Your Honor, Philip Erickson for LAN.

2 THE COURT: Thank you. Then McLaren.

3 MS. SMITH: Your Honor, Susan Smith here for McLaren.

4 THE COURT: Okay. Thank you.

5 MR. MACDONALD: Good afternoon, Your Honor. Brian
6 MacDonald on behalf of McLaren as well.

7 THE COURT: Okay. Thank you. Okay. Who have I
8 missed? Would anybody else like to make an appearance? Let's
9 put it that way.

10 MR. WISE: Your Honor, Matt Wise on behalf of Jeff
11 Wright.

12 THE COURT: Okay. Great. Okay. All right. Well
13 that's plenty of lawyers. So thank you.

14 And so Jeseca, what we'll do is that for the moment
15 we'll go off the record, get our meeting underway, and we'll
16 let you know if we're going to put something on the record and
17 we'll have the appearances taken care of.

18 || (Off The Record)

19 THE COURT: We're back on the record having had about
20 an hour of Zoom telephonic -- video telephonic hearing
21 regarding some discovery coordination issues.

22 The State of Michigan counsel has requested from the
23 Court a decision on whether I would like to or entertain a
24 motion for protective order regarding the depositions of
25 former Governor Snyder and former State Treasurer Andy Dillon.

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1 The State of Michigan counsel has informed the Court
2 that they have already filed an appeal of an earlier order on
3 this arguing that both are -- should be -- should not be
4 disposed until the issue of their qualified immunity as
5 defendants in the case is resolved.

6 From my perspective, the depositions should go
7 forward on June 25th and 26th when they are currently
8 scheduled because I am not viewing them as defendants with a
9 qualified immunity defense for these depositions.

10 They certainly have that argument pending in the
11 Carthan appeal and in the Walters and Sirls appeal. But
12 insofar as June 25th and 26th are concerned, I'm viewing them
13 as third party witnesses to the Guertin case and all other
14 cases where the litigation is going forward.

15 So I'm not viewing them as defendants with a
16 qualified immunity defense. I think they would be deposed
17 regardless of that defense and regardless of the decision that
18 the Court of Appeals makes in its current consideration of the
19 Carthan case in the Walters and Sirls cases.

20 So from my perspective filing an additional motion
21 for a protective order would be futile. And to the extent the
22 State of Michigan counsel wished to appeal that, this will be
23 the record that they can bring to the attention of the Court
24 of Appeals.

25 MR. LEOPOLD: Thank you, your Honor.

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1 MR. GAMBILL: And just to clarify, we would be filing
2 a motion for stay in the Court of Appeals. Not a motion --

3 THE COURT: Okay. A motion for a stay. Okay. And
4 so I think that -- if you were to bring that to me first, that
5 would also be futile.

6 MR. GAMBILL: Thanks Your Honor.

7 THE COURT: Okay. Thanks, Jeseca. We'll be off the
8 record.

9 || (Off The Record)

10 (Proceedings Concluded)

11 — — —

CERTIFICATE OF OFFICIAL COURT REPORTER

14 I, Jeseca C. Eddington, Federal Official Court
15 Reporter, do hereby certify the foregoing 11 pages are a true
16 and correct transcript of the above entitled proceedings.

17 /s/ JESECA C. EDDINGTON
Jeseca C. Eddington, RDR, RMR, CRR, FCRR

5/8/2020
Date